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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,400	09/26/2003	Dallas J. Bergh	110003.00045.03AB174	9147

7590 12/07/2004  
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EXAMINER
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DONOVAN, LINCOLN D

ART UNIT	PAPER NUMBER
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2832

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/672,400

Applicant(s)

BERGH ET AL.

Examiner

Lincoln Donovan

Art Unit

2832

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>09-26-03</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of the species restriction in the reply filed on 09-28-04 is acknowledged. The traversal is on the ground(s) that the additional features added in the various embodiments are "generically" covered by claim 1 and are "simply an optional feature." This is found persuasive. Claim 25 is rejoined with claims 1-24 and 26-38. All of the claims are examined on merit.

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: in line 11, "second positions" should be corrected as -- second position --. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 35-37, line 3, there is no antecedent basis for "the support members." Applicant in line 2 recites that there is "at least one support member." The specific structure and arrangement of the support members is unclear. Applicant should clarify the intended connection and relationship between the support members and the contacts and/or bearing surfaces.

Regarding claim 1, in line 8, it is not clear what structure is intended by "one second contact one of opens."

Regarding claims 26 and 34, the specific structure and arrangement of the support members is unclear. Applicant should clarify the intended connection and relationship between the support members and the contacts and/or bearing surfaces.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 7-9, 11-12, 22, 26-27 and 34-38, as best understood in view of the rejections under 35 USC 112, 2<sup>nd</sup> paragraph, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritzenthaler et al. [US 4,097,832] in view of Passow [US 5,994,987].

Regarding claims 1, 11-12, 22, 26-27 and 34-38, Ritzenthaler et al. disclose a relay comprising:

- at least one support member [80];
- at least one first contact [82] carried by the at least one support member;
- an armature assembly [50], supporting a first bearing surface [60], carried by the at least one support member;
- a molded plastic operator [B, column 4, lines 19-24] having a second bearing surface movable between activated and deactivated positions;

- a push arm [100] forming a distal end [figure 1] and a push button surface [102], the push arm being carried/supported by support member [12], wherein one of the distal end engages one of the first and second bearing surfaces and the other of the distal end and the push surface engages the other of the first and second bearing surfaces when the armature is in the second position and the operator is moved from the deactivated position toward the activated position thereby applying force to the first bearing surface.

Ritzenthaler et al. disclose everything claimed except the armature being bistable.

Passow disclose a bistable armature used within a relay [figure 1].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a bistable armature in the relay of Ritzenthaler et al., as suggested by Passow, for the purpose of latching the relay.

Regarding claims 8-9, Ritzenthaler et al., as modified, disclose everything claimed except the specific contact configuration and bias states.

The specific number of contacts used and bias states would have been an obvious design consideration based on the specific intended application for the device.

***Allowable Subject Matter***

Claims 2-6, 10, 13-21, 23-25 and 28-33 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Egler [US 3,614,684], Melter et al. [US 4,378,543], Mader et al. [US 2002/0079994], Connell et al. [US 5,227,750], Poulsen [US 5,525,948], Tanaka [US 5,194,839].

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lincoln Donovan whose telephone number is 571-272-1988. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ldd

  
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